

Date: October 27, 2016

To: HR Directors and Designees, CFOs and Designees

From: Matthew Henderson, Compensation Manager, MMB

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Subject: New Fair Labor Standards Act Overtime Reports

Overview

Beginning on December 1, 2016, the Fair Labor Standards Act, or FLSA (federal law regulating employees' hours of work and overtime) is changing. After the law changes, exempt employees who earn less than **\$47,476 annually (\$913 / week)** will be entitled to overtime.

Why is the change happening?

The Department of Labor last updated what is known as the "salary basis" for exempt employees in 2004, when it established the current rate of \$23,660. After the December 1, 2016 increase, the salary basis for FLSA exempt status will be indexed to the Consumer Price Index and increase every 3 years.

Who will be affected at my agency?

MMB has developed two reports within the FLSA dashboard in OBIEE to identify any exempt employees whose salary is below the new FLSA salary basis threshold. The reports are titled "FLSA Salary Basis" and "FLSA Salary Basis for Part-Time," and are populated with current data. Your agency's results, if any, will appear on these reports.

Part time employees are included in these reports because there is no prorating of the salary basis depending upon hours worked. If an exempt employee earns less than \$913 per week, irrespective of the number of hours that salary is intended to cover, they are "nonexempt" under the December 1, 2016 rule change and will be identified on one of the two OBIEE FLSA Salary Basis reports.

What do I need to do?

1. **Review** your agency's results on OBIEE FLSA Salary Basis reports prior to December 1, and periodically thereafter, to identify affected employees. MMB recommends reviewing the reports at least as frequently as once per pay period to ensure that all employees are coded correctly in SEMA4 so that they are paid correctly.
2. **Change** affected employees' FLSA Status from "Exempt" to "Exempt – FST" (FST means "Failed Salary Test") on the FLSA Position status in SEMA4.

From		To	
A	Exempt - Administrative	1	Exempt – Administrative FST
E	Exempt – Executive	3	Exempt – Executive FST
P	Exempt – Professional	6	Exempt – Professional FST

Please change current employees’ FLSA position status to the appropriate Exempt - FST designation on or before December 1.

In addition, please implement internal practices and procedures to ensure that newly hired employees and employees whose work conditions move them below the salary basis threshold are designated with the appropriate FLSA position designation. For example, employees who earn above the salary basis threshold when working a full time schedule but who earn less than the salary basis threshold once their FTE drops to .75 will need to be re-designated as Exempt-FST when their employment status changes.

3. **Notify payroll** if affected employees are currently set up in SEMA4 as exception time reporters. The law requires that nonexempt employees track all hours worked. Employees who become nonexempt as a result of the salary basis changes must record their hours just like any other nonexempt employee. Please include payroll in your discussions about hours and time tracking for employees affected by the change to the salary basis test.
4. **Communicate** the changes to affected employees. Talking points to aid in conversations with affected employees, and a Power Point presentation to train managers and supervisors on this rule change, are attached to this memorandum.
5. **Track** or audit Exempt-FST employees’ time entry for at least the first several payroll cycles to ensure that both the affected employees and their managers / supervisors are recording their time correctly in self-service.
6. **Monitor** Exempt-FST employees for salary increases. Once Exempt-FST employees receive a step increase, performance incentive, or other salary increase that puts them above the \$47,476 annual / \$913 per week amount, they will again qualify as ‘exempt’ and SEMA4-HR / SEMA4-payroll should be adjusted accordingly.

Where should I go if I have questions?

A list of anticipated frequently asked questions is attached. Additionally,

- For questions regarding access to OBIEE:

To gain access, contact your agency’s security administrator or complete a [Request for Access to SWIFT Statewide Systems](#). The role access required to the FLSA subject area is:

M_EPM_HR_PRIVATE_DATA_BY_DEPT. If you or your security administrator have questions, contact the SWIFT help desk at 651-201-8100, option 2 or via e-mail at swifthelpdesk.mmb@state.mn.us.

- For questions regarding changing FLSA Position Status data in SEMA4:

[Agency Account Assignments](#)

- For Payroll Questions:

[Statewide Payroll Contacts](#)

- For general questions about the law change and how MMB determined who was affected:

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